

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HARRISON DIVISION

FABIAN MARC VALDEZ, in his own  
right and on behalf of, SEBASTIAN  
BENJAMIN VALDEZ GOODMAN,  
a/k/a SEBASTIAN AGUIRRE, a/k/a  
SEBASTIAN OSBAN

PLAINTIFFS

v.

Civil No. 06-3064

LORETTA GOODMAN,  
a/k/a AGUIRRE, a/k/a OSBAN

DEFENDANT

**ORDER**

NOW on this 13th day of November 2006, comes on for consideration the Amended Report and Recommendation of the Magistrate Judge (the "Amended R&R" -- document #5), filed on October 18, 2006, and the Court, being well and sufficiently advised, finds and orders as follows with respect to the same:

1. In the Amended R&R, the Magistrate Judge advised the plaintiff, Fabian Marc Valdez ("Valdez") that he had ten days from his receipt of the October 18, 2006, order in which to file written objections thereto. The Order also reminded Valdez ". . . that objections must be both timely and specific to trigger de novo review by the district court."

2. Neither the file nor the electronic court records indicate when Valdez may have received the Court's Order of October 18, 2006. However, on November 6, 2006 -- some nineteen days after the date of the Magistrate Judge's Order -- Valdez filed a pleading herein entitled "**Opposition To Amended Report And Recommendations**" (Document #6). There is no indication that

Document #6 was made available to the respondent.

Despite the reminder in the Amended R&R, Valdez's pleading does not state any specific objection to the Amended R&R -- in fact, it states no objections at all. Instead, it requests that Valdez ". . . be awarded an additional thirty (30) days to amend his original complaint to conform to the jurisdictional issues raised by the court in its Report and Recommendation dated October 18, 2006." The pleading goes on to outline Valdez's intentions as to "framing" his cause(s) of action in an amended complaint.

3. The tenor of Valdez's pleading (Document #6) suggests not that he believes the Amended R&R is incorrect but, rather, that he knows it is correct and that if he is to be permitted to proceed he will have to totally revamp and re-tool his complaint.

The Court believes that the Amended R&R is correct and sound both as to law and fact. Accordingly, in the absence of any objection to it, the Amended R&R must be adopted and ordered implemented.

4. Since the correct conclusion of the Amended R&R is that the Court has no jurisdiction over it as drawn, the Court lacks the authority to order or permit the complaint to be amended.

IT IS, THEREFORE, ORDERED that the Amended Report and Recommendation be, and it hereby is, approved, adopted and ordered implemented.

IT IS FURTHER ORDERED that Valdez's complaint be, and it

hereby is, ordered dismissed for lack of jurisdiction.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren  
JIMM LARRY HENDREN  
UNITED STATES DISTRICT JUDGE